IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 4671/2007

M/S SHRI SITARAM CASTING
Vs.
JAIPUR VIDYUT VITRAN NIGAM LIMITED & ORS.

DATE: 02.08.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. R.P. Garg for the petitioner.
Mr. Virendra Lodha for the respondents.

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Heard rival submissions of the respective parties.

It is not disputed that the tender of the petitioner was accepted on 20.11.2006 to purchase the copper coil scrap of power transformer with paper insulation for total quantity of 50530 Kg. @ 345.11/- Kg. exclusive of VAT & TCS etc. and the total amount to be paid by the petitioner is 1,74,38,408.30 exclusive of VAT & TCS etc.

In lieu of the purchase order, the petitioner deposited Rs. 16,68,840/- on 30.11.2006 and moved application dated 19.2.2007 for seeking extension of reasonable time to deposit the balance amount.

Learned counsel appearing for the respondents submits that the petitioner was to deposit the entire amount on 16.01.2007 after expiry of 45 working days from the date of place order dated 20.11.2006 and further extension of 18 working days is considered and the petitioner was to make the full payment upto 08.02.2007, but since he has not made the payment, therefore, the amount which was deposited i.e. 16,68,840/- has been forfeited by the respondents on 06.03.2007.

Learned counsel for the petitioner submits that before forfeiture order, the petitioner moved application dated 19.02.2007 for seeking extension which has not been considered and neither communicated to the petitioner with regard to any rejection order of this application, though he is willing to purchase and wants to deposit the balance amount @ 345.11/- Kg. exclusive of VAT and TCS etc., but the penalty of 18% p.a. be waived.

Since the respondents are agreed that if the petitioner wishes to purchase this total quantity of 50530 Kg. of copper coil scrap of power transformer as per the order dated 20.11.2006, they have no objection but the petitioner has to make the payment of penalty also @ 18% p.a.

As the petitioner is willing to deposit the balance amount but do not want to pay the amount of penalty, for the grievance of 18% penalty, it is for the respondents to consider the same as the petitioner has moved application for seeking extension of time to deposit the balance amount dated 19.02.2007 and considering the same the respondents can only waive the penalty, but this Court need not to pass any order to this effect. The respondents are expected to decide the aforesaid application of the petitioner dated 19.02.2007 expeditiously, but in any case not beyond the period of 15 days from the date of receipt of certified copy of this Court.

The writ petition stands disposed of with the observations as indicated herein above.

(K.S. RATHORE),J.

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